



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

March 6, 1998

Arthur S. Higley
487 East 2400 South
Salt Lake City, UT 84115

Dear Mr. Higley,

As you are aware, we have received complaints from residents along Burmester Road that you are diverting water from wells or other sources and directing it in close proximity to their property resulting in damage to their land. Over the past couple of weeks, Frank Quintana from this office has visited the site and attempted to determine if water is being diverted and which water rights you or others may have which authorizes such diversions. This investigation is ongoing.

In the course of examining various wells in the area and others which may be the cause of the problems which are being complained of, it is noted that a well has been drilled at location about West 800 feet from the SE Corner of Section 12, T2S, R6W, SLB&M. You have requested from time to time permission to drill "test wells" in this area which has been granted. However, the records of the State Engineer do not show the right to use any well in Section 12. I must insist that the well be immediately capped until proper water rights are obtained for the use of the well. If you do not intend to retain and use this well, it must be abandoned in accordance with the Division's Administrative Rules For Water Well Drillers.

Your use of water must remain within the limits of your approved, valid water rights. You are not authorized to divert or store water from any source during the off-irrigation season except for stock watering. It appears that you have constructed a pipe line to convey water to Section 12. You do not have water rights to irrigate in Section 12.

Also, last year you were notified that your flowing wells needed to be controlled by installing gates or valves. I look forward to notification of your compliance with this order from the State Engineer.


As to the issue of property damage, water users are required to control the water that they divert to prevent damage to the property of others. If water which you are causing or allowing to be produced by wells or other sources is entering the property of others, you may be liable for

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any damage which results. This is a judicial matter, not an administrative one, and must be resolved in the appropriate court if the parties involved can not reach an amicable settlement.

Please contact me at your earliest convenience to discuss these matters at 538-7397.

Sincerely,

A handwritten signature in cursive script, reading "John R. Mann".

John R. Mann, P.E.
Regional Area Engineer

cc: Albert A. And Margaret A. Grimsley
7012 North Burmester Road
Grantsville, UT 84029

Lee Sim, Assistant State Engineer